IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINETEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 4050 of 1993

Between:

Ahmed Raza Dashti S/o G.R. Dashti
R/o Tarnaka, Hyderabad

..... PETITIONER

AND

The Municipal Corporation of Hyderabad rep. by Commissioner
Tank Bund Road, Hyderabad

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of Mandamus, thereby declaring the action of the respondent-Corporation in demanding the arrears of property tax to be paid in lump sum and seizing the moveable properties belonging to the petitioner, as arbitrary, illegal, null and void besides being un-constitutional.

Counsel for the Petitioner:MR.P.V.UMASHANKARA RAO.

Counsel for the Respondent : SC for Municipal Corpn. Of Hyderabad.

The Court at the stage of admission, made the following :

ORDER : (per Sri Bilal Nazki, J)

The Writ Petition has been filed challenging the action of seizure of moveable property of the petitioner. Counter has not been filed. We have heard the learned Counsel for the parties.

The Notice issued by the respondent-Corporation reads as under;

> *"Take notice that I have this day seized the moveable property specified in the inventory beneath this, for the sum of Rs.82,232/- due for the tax mentioned in the margin for the half-year commencing or (terminating) on the 31st day of March, 1993 and that unless you pay to Municipal Office at Hyderabad, the amount due together with the cost of recovery, within seven days from the day of the date of this notice, the moveable property will be sold."*

On the face of it, the notice is without jurisdiction, without any assessment and without even informing the petitioner that his property was going to be seized. Notice was given only after seizure, confirming the seizure. Besides, it is stated that the petitioner was only a tenant in the property and at best a demand could be created against him for a period of one year.

As there was no assessment, the impugned action of the respondent is illegal and without jurisdiction. Writ Petition is allowed. The amount paid by the petitioner on the orders of this Court, shall be refunded to him or adjusted, if

permitted under law, against any claim. No costs.

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(BILAL NAZKI, J)

19th August, 2004.

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(S.ANANDA REDDY, J)

ajr

To

1 The Commissioner, Municipal Corporation of Hyderabad,
Tank Bund Road, Hyderabad.

2 Two C.D. copies.